

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DANIEL FELLNER,

Plaintiff,

- against -

JEWISH VOICE INC.

Defendant.

Docket No. 1:18-cv-5965

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Daniel Fellner (“Fellner” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Jewish Voice Inc. (“Jewish Voice” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photographs and an article of the Jewish community in Thailand, owned and registered by Fellner, a professional photographer and journalist. Accordingly, Fellner seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Fellner is a professional photographer in the business of licensing his photographs and articles to online and print media for a fee having a usual place of business at 3059 East Hazeltine Way, Chandler, AZ 85249.

6. Upon information and belief, Jewish Voice is a domestic business corporation duly organized and existing under the laws of the State of New York, with a place of business 2154 East 4th Street, Brooklyn, New York 11223. Upon information and belief Jewish Voice is registered with the New York Department of State Division of Corporations to do business in the State of New York. At all times material, hereto, Jewish Voice has owned and operated weekly newspaper called The Jewish Voice (the “Newspaper”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photographs

7. Fellner photographed the Jewish community in Thailand (the “Photographs”) and also wrote and published an article (the “Article”). A true and correct copy of the Photographs and Article are attached hereto as Exhibit A.

8. Fellner is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The five Photographs were registered with the United States Copyright Office and was given registration number VA 2-102-588 and titled “Businesses near the Phuket Chabad House.JPG 2.17.18-4,” “Pad-thai for lunch.JPG, 2.17.18-6,” “Rabbi Mendy Segal JPG, 2.17.18-9,” “2.17.18-Day cruises. on the Andaman Sea.JPG,” and “2.17.18-Jewish-owned restaurants in downtown Patong, Phuket.JPG.” See Exhibit B

10. The Article was also registered with the United States Copyright Office and was given registration number TX 8-559-608, and title “Checking out the Jewish Scene in Phuket, Thailand and other contributions.” See Exhibit C.

B. Defendant’s Infringing Activities

11. On or about March 2, 2018, Jewish Voice ran an article in the Newspaper titled *Checking out the Jewish Scene in Phuket, Thailand*. See URL www.pressreader.com/usa/the-jewish-voice/20180302/282415579780475. The article featured the Photographs and the Article. A true and correct copy of the article is attached hereto as Exhibit D.

12. Jewish Voice did not license the Photographs or the Article from Plaintiff for its article, nor did Jewish Voice have Plaintiff’s permission or consent to publish the Photographs or the Article in its Newspaper.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Jewish Voice infringed Plaintiff’s copyright in the Photographs and Article by reproducing and publicly displaying the Photographs and Article in the Newspaper. Jewish Voice is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs and Article.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff’s copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Jewish Voice be adjudged to have infringed upon Plaintiff's copyrights in the Photographs and Article in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
October 24, 2018

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